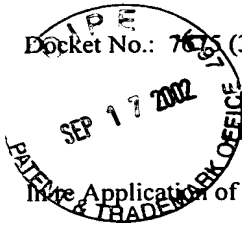


Docket No.: 7675 (3225-034)

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Inter Application of

Keith BOLAND

Serial No. 09/086,627

Filed: May 29, 1998

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Group Art Unit: 2153

Examiner: B. Edelman

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SEP 20 2002

Technology Center 2100

For: METHOD AND APPARATUS FOR ALLOCATING NETWORK RESOURCES AND CHANGING THE
ALLOCATION BASED ON DYNAMIC WORKLOAD CHANGES

TRANSMITTAL OF REPLY BRIEF

COMMISSIONER FOR PATENTS
Washington, DC 20231

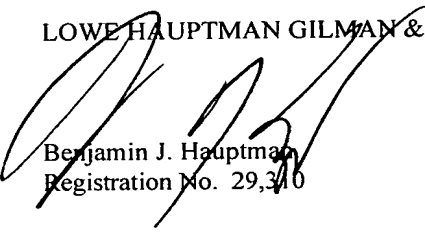
Sir:

Submitted herewith in triplicate is Appellant's Reply Brief to the Examiner's Answer mailed July 17, 2002.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: September 17, 2002

DOCKET NO. 7675 (3225-634)

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

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In re Application of

Keith BOLAND

Serial No. 09/086,627

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For: METHOD AND APPARATUS FOR ALLOCATING NETWORK RESOURCES
AND CHANGING THE ALLOCATION BASED ON DYNAMIC WORKLOAD
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Group Art Unit: 2153

Examiner: B. Edelman

Box Patent Appeal Brief
Commissioner for Patents
U.S. Patents and Trademarks Office
Washington D.C. 20231
Attn: BOARD OF PATENT APPEALS AND INTERFERENCES

REPLY BRIEF

Appellant hereby files this Reply Brief to the Examiner's Answer mailed July 17, 2002. This Reply Brief is submitted in triplicate.

Appellant respectfully traverses all the Examiner's arguments indicated in the "Grounds of Rejection" and "Response to Argument" sections of the Examiner's Answer. In the following section, Appellant will address the Examiner's arguments indicated in the "Response to Argument" section. Any remaining issues are believed sufficiently adequately treated in the Appeal Brief filed April 29, 2002.

In pages 9-10 of the Examiner's Answer, the Examiner is deemed to continue to hold that Culbert teaches the limitation of independent claim 1 that the minimum resource allocation

for the first (higher-priority) process is guaranteed should insufficient network resources be available. The Examiner alleges that column 8, lines 19-23 of Culbert is readable on the claimed feature. Appellant respectfully disagrees.

Column 8, lines 19-23 of Culbert discloses that the resource manager must **reserve** resources for the worst-case usage scenario to guarantee proper functioning of error intolerant tasks. The subsequent description of the Culbert resource management method does not reveal how resources are reserved for error intolerant tasks in the worst-case usage scenario. In other words, Culbert fails to describe what the term “reserve” means. Accordingly, the term is given a traditionally dictionary meaning. By definition, to “reserve” resources is to set some resources aside or to keep some resources back for future use or for some specific purpose. See Exhibit A. Clearly, this teaching does not fall within the context of **redistributing** resources as defined in independent claim 1. Therefore, the applied references, especially Culbert, still fail to disclose, teach or suggest the last limitation of claim 1.

In pages 11-12 of the Examiner’s Answer, the Examiner continues to hold that Culbert suggests the limitation of claims 14 and 16 that the minimum resource allocation for the high-priority process is guaranteed regardless of computer resources necessary for the low-priority process to run.

First, the Examiner states that the Culbert teaching of reserving resources for error-intolerant tasks, in column 8, lines 19-23, would suggest to a person of ordinary skill in the art the possibility of modifying the Culbert system to allow such high priority tasks to completely override low-priority tasks. Appellant respectfully disagrees, because the amount of resource necessary for proper functioning of error intolerant tasks in the worst-case usage scenario is in fact reversed resources, i.e., resources that have not been allocated, and needs not be taken from the low-priority tasks. The method of Culbert actually teaches away from the Examiner’s proposed modification of allowing the high priority tasks to override the low-priority tasks, as detailed in the Appeal Brief, especially pages 13-14.

Second, the Examiner states that a person of ordinary skill in the art would have readily recognized the “reverse” process of allowing a resource requesting task to gain a minimum

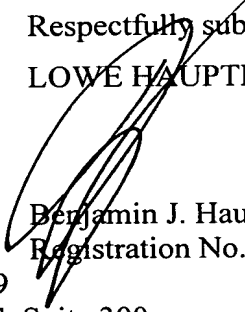
resource allocation over an already allocated task, irrespective of that task, because the requesting task is far more important. Appellant respectfully disagrees, because the Examiner is clearly relying on hindsight in his rationale. Without the benefit of Appellant's disclosure, a person of ordinary skill in the art would not have readily recognized the reverse process. Culbert specifically teaches that if a task needs additional resources, it must ask other tasks for the additional resources. If the resource reallocation request is denied and the requesting task is an error-intolerant task, the task may be entitled to reversed resources as taught in column 8, lines 19-23.

Consideration of this reply brief together with the Appeal Brief filed April 29, 2002 is respectfully requested. Reversal of the Examiner's Final Rejection, in view of the arguments presented in the Appeal Brief and this Reply Brief, is believed appropriate and courteously solicited.

If for any reason this Reply Brief is found to be incomplete, or if at any time it appears that a telephone conference with counsel would help advance prosecution, please telephone the undersigned, Appellant's attorney of record.

To the extent necessary, a petition for an extension of time under 37 C.F.R. Section 1.1136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extensions of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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September 17, 2002